IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.560 OF 2004

Shri Uday Shahajirao Deshmukh ..Petitioner

Versus

Shri Dineshkumar Sharma & Anr. ..Respondents

Shri V.D.Borwankar for the petitioner.

Ms.R.M.Ghadvi APP for Respondent/State.

Coram : A.S.Oka,J

Date : 1.9.2005.

PC

1. Heard the learned Advocate for the petitioner. The petitioner is the accused in a Complaint under Section 138 of the Negotiable Instruments Act,1881. An application was made by the Complainant before the learned Magistrate seeking permission to lead secondary evidence of the cheque on the basis of which complaint is filed. The ground pleaded in the application is that the original cheque was handed over by the applicant to his Advocate for the purposes of filing the complaint and the said Advocate has misplaced the original cheque. Considering the ground made out in the application, the learned Magistrate allowed the said application and permitted the Complainant to lead secondary evidence. The order of the learned Magistrate has been confirmed in revision preferred by the present

petitioner.

2. After having heard the learned Advocate for the petitioner, I find that the learned Magistrate was justified in permitting the Complainant to lead secondary evidence. Considering the ground on which the application was made by the original Complainant, the learned Magistrate was justified in passing the order which is impugned in this petition.

3. There is no merit in the petition and the same is dismissed. All contentions of the parties on merit in the Complaint are expressly kept open.

(A.S.Oka,J)